108TH CONGRESS
1ST SESSION

H. R. 2052

To amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2003

Mr. BURR (for himself, Mr. DINGELL, Mr. DEAL of Georgia, Mr. PRICE of North Carolina, and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The principle of localism is embedded in the Communications Act in section 307(b) of the Communications Act of 1934 (47 U.S.C. 307(b)). It has been the pole star for regulation of the broadcast industry by the Federal Communications Commission for nearly 70 years.

(2) In the Telecommunications Act of 1996, Congress directed the Federal Communications Commission to increase the limitations on national multiple television ownership so that one party could not own or control television stations whose aggregate national audience reach exceeded 35 percent. Congress did so because it recognized that—

(A) further national concentration could not be undone;

(B) other regulatory changes, such as the repeal by the Commission of its financial and syndication regulations, would heighten the power of the national television networks; and

(C) the independence of non-network-owned stations would be threatened if network ownership exceeded 35 percent.

(3) If a limit to the national audience reach of television stations that one party may own or control is not codified at this time—

(A) further national concentration may occur whose pernicious effects may be difficult to eradicate; and

(B) the independence of non-network-owned stations will be threatened, placing local stations in danger of becoming mere passive conduits for network transmissions.

(4) A cap on national multiple television ownership will help preserve localism by limiting the networks ability to dictate programming aired on local stations.

(5) The landscape of national ownership has changed dramatically over the past two decades since the time when the networks were limited to owning just seven television stations nationwide:

(A) the Commission's financial and syndication regulations have been repealed;

(B) the networks can own more than one television station in many local markets;

(C) the networks have embraced programming ventures from studios to syndication to foreign sales; and

(D) the networks own the most popular cable and Internet content businesses.

Together these changes have strengthened the networks hands and given them strong incentives to override local interests.

(6) Unlike non-network-owned stations which are only concerned with local viewers, network-owned stations have multiple interests they must consider: national advertising interests, syndicated programming interests, foreign sales interests, cable programming interests, and, lastly, local station interests.

(7) The possibility of further nationalization threatens the current give-and-take between non-network-owned affiliates and networks which can result in programming being edited, scheduled, or promoted in ways that are more appropriate for local audiences.

(8) As network power has grown in recent years, the networks have forced affiliation agreements to tilt the balance of power even more in their favor. Contract provisions encroach on the ability of non-network-owned affiliates to reject programming that local stations determine not to be in the best interests of their local communities, and local sta-

tions are penalized for unauthorized preemptions (as determined by the network) and for exceeding preemption baskets.

(9) This Act will help to preserve localism in and to prevent the further nationalization of the television broadcast service.

(b) PURPOSES.—The purposes of this Act are—

(1) to promote the values of localism in the television broadcast service;

(2) to promote diversity of television programming and viewpoints;

(3) to promote competition; and

(4) to prevent excessive concentration of ownership by establishing a limit to the national audience reach of the television stations that any one party may own or control.

SEC. 3. NATIONAL TELEVISION MULTIPLE OWNERSHIP LIMITATIONS.

(a) ESTABLISHMENT OF NATIONAL TELEVISION MULTIPLE OWNERSHIP LIMITATIONS.—Part I of Title III of the Communications Act of 1934 is amended by inserting after section 339 (47 U.S.C. 339) the following new section:

"SEC. 340. NATIONAL TELEVISION MULTIPLE OWNERSHIP LIMITATIONS.

"(a) NATIONAL AUDIENCE REACH LIMITATION.—The Commission shall not permit any license for a commercial television broadcast station to be granted, transferred, or assigned to any party (including all parties under common control) if the grant, transfer, or assignment of such license would result in such party or any of its stockholders, partners, or members, officers, or directors, directly or indirectly, owning, operating or controlling, or having a cognizable interest in television stations which have an aggregate national audience reach exceeding 35 percent.

"(b) NO GRANDFATHERING.—The Commission shall require any party (including all parties under common control) that holds licenses for commercial television broadcast stations in excess of the limitation contained in subsection (a) to divest itself of such licenses as may be necessary to come into compliance with such limitation within one year after the date of enactment of this section.

"(c) SECTION NOT SUBJECT TO FORBEARANCE.—Section 10 of this Act shall not apply to the requirements of this section.

"(d) DEFINITIONS.—

"(1) NATIONAL AUDIENCE REACH.—The term 'national audience reach' means—

“(A) the total number of television households in the Nielsen Designated Market Area (DMA) markets in which the relevant stations are located, or as determined under a successor measure adopted by the Commission to delineate television markets for purposes of this section; divided by

“(B) the total national television households as measured by such DMA data (or such successor measure) at the time of a grant, transfer, or assignment of a license.

No market shall be counted more than once in making this calculation.

“(2) COGNIZABLE INTEREST.—Except as may otherwise be provided by regulation by the Commission, the term ‘cognizable interest’ means any partnership or direct ownership interest and any voting stock interest amounting to 5 percent or more of the outstanding voting stock of a licensee.”.

(b) CONFORMING AMENDMENT.—Section 202(c)(1) of the Telecommunications Act of 1934 (Public Law 104–104; 110 Stat. 111) is amended—

(1) by striking “its regulations” and all that follows through “by eliminating” and inserting “its regulations (47 CFR 73.3555) by eliminating”;

(2) by striking ''; and'' at the end of subparagraph (A) and inserting a period; and

(3) by striking subparagraph (B).

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